
Maryland Department of the Environment



**FY 2005
PAYGO Presentation**

House Appropriations Committee
Transportation &
The Environment Subcommittee

February 10, 2004

Maryland Department of the Environment

Fiscal Year 2005 PAYGO Presentation Response to the Department of Legislative Services

Maryland Water Quality Revolving Loan Fund

Issue

The Maryland Department of the Environment (MDE) should be prepared to brief the committee on the current status of BNR and ENR upgrades and the programmatic and fiscal impacts of the administration's sewage surcharge proposal. Since the surcharge is proposed for use for only ENR upgrades, and many WWTPs are not operating at the BNR level, the success of this proposal hinges on the ability of local jurisdictions to secure the funds necessary to participate in WQRLF. MDE should discuss whether local jurisdictions have the resources to move forward with BNR upgrades within the timeframe envisioned in the Administration's ENR initiative. Furthermore, MDE should be prepared to discuss:

- a) why only 30 of the 43 facilities with BNR technology in operation are operating at the BNR level;
- b) whether the proposed ENR upgrade implementation schedule is overly ambitious;
- c) the reaction of businesses and local jurisdictions to the sewage surcharge proposal;
- d) other MDE programs that assist smaller jurisdictions with nutrient reduction; and
- e) the likelihood of imposing non-voluntary targets for nutrient reduction on local jurisdictions.

Furthermore, the U.S. Environmental Protection Agency recently announced that its 2005 budget request to Congress includes \$10.0 million for federal grants to reduce pollution entering the Chesapeake Bay and for a regional pilot program aimed at encouraging WWTPs to collaborate with non-point nutrient sources. If approved, MDE should discuss the impact that this funding would have on Maryland.

Department Response:

The Maryland Water Quality Revolving Loan Fund (WQRLF) has the capacity to meet the local share of BNR funding requirements, as long as the State continues to provide grants for 50% of the eligible planning, design and construction costs of BNR upgrades. It is important that the BNR grant program continue since there are still 23 major sewage treatment plants that have committed to install BNR upgrades and are not yet complete. Funding for the BNR program must continue until these upgrades are completed. The proposed legislation, if approved by the legislature, will provide the funding needed to upgrade facilities from BNR to ENR. Full implementation of BNR and ENR at the State's major sewage treatment plants is needed to restore Chesapeake Bay water quality.

- a) As of January 2004, 30 of the 43 plants in operation are performing at 8 mg/l or better. The remaining 13 are in various stages of project closeout to determine whether the process components are constructed and functioning as designed and to make adjustments needed to meet the performance criteria. As an aside, weather also affects the efficiency of the BNR processes; at very cold-water temperatures, the biological processes are impeded.

b) The proposed implementation schedule, to begin construction of ENR facilities in 2005, phasing in additional plants each year in order to begin construction of all 66 major facilities by 2009 and complete construction by 2011, is very ambitious. Meeting this schedule will require that all local governments fully cooperate, that design problems are handled quickly and that construction proceed without delay or cost over-runs.

c) The reaction of businesses and local jurisdictions to the sewage surcharge proposal has been mixed. Some businesses have indicated that the fee is appropriate, others believe that it is too high given the economic stresses they are facing. Local jurisdictions (municipal, county and WSSC representatives) from the Washington Metropolitan region on the Council of Government's Chesapeake Bay Policy Committee were briefed on the details of the bill and were supportive of the concept and interested in seeing the details. The Maryland Municipal League (MML) has been briefed and both positive and negative comments were raised, however, MML has not taken a position on the legislation at this time.

d) MDE uses the Supplemental Assistance grant program to increase the percentage of state grant participation in BNR/ENR projects for smaller and financially disadvantaged communities. This program provides an additional 25% State share to reduce the local share to 25% of eligible project costs.

e) There will eventually be mandatory nutrient permit limits on all dischargers, including industries and local jurisdictions, unless the water quality standards are achieved first. The federal Clean Water Act requires that states monitor their waters to determine where water quality standards are not being achieved, develop estimates of the quantity of a pollutant that can be discharged from all sources and not violate water quality standards (the Total Maximum Daily Load or TMDL) and implement discharge permits and nonpoint source control measures to ensure that the TMDL is achieved. MDE has a few EPA approved TMDLs that do require nutrient limits in permits and nutrient permit limits have been or soon will be imposed for facilities in those watersheds. There is no nutrient TMDL currently in place for Chesapeake Bay, however, there is a court order in place that requires EPA to develop and implement a TMDL for Chesapeake Bay by 2011 if the states have not either achieved the water quality standards or implemented their own TMDL for Chesapeake Bay that will result in achievement of water quality standards.

The Chesapeake 2000 agreement commits the signatory jurisdictions (MD, VA, PA, DC) to develop and implement strategies (Tributary Strategies) to achieve the water quality standards for the Chesapeake Bay and its tributaries by 2010 and thereby avoid the requirement for a Bay-wide TMDL.

EPA recently announced that its 2005 budget request to Congress includes \$10.0 million for federal grants to reduce pollution entering the Chesapeake Bay. MDE believes that, if approved, this program will have minimal impact on Maryland's point source efforts. The \$10 million is for the entire Chesapeake Bay region, not just Maryland. The funds will be awarded as competitive grants. Given the amount of funds needed to implement the capital intensive ENR program, this is not likely to affect that program. However, the funds could be used to develop nutrient trading programs, develop and implement other tools such as stormwater utility fee systems, and other innovations to reduce pollution.

Recommended Actions

- 1. Concur with Governor's Allowance.**

Department Response:

The department accepts this recommendation.

Maryland Drinking Water Revolving Loan Fund

Recommended Actions

- 1. Concur with Governor's Allowance.**

Department Response

The department accepts this recommendation.